

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HAYNES INTERNATIONAL, INC.,)	
)	
Plaintiff,)	Civil Action No. 04-197(E)
)	
v.)	JURY TRIAL DEMANDED
)	
ELECTRALLOY, a Division of G.O.)	
CARLSON, INC.,)	Judge Cohill
)	
Defendant.)	

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant Electralloy, a Division of G.O. Carlson, Inc., through its undersigned counsel, pursuant to Federal Rule of Civil Procedure 56(b) and Local Rule of Civil Procedures 56.1, respectfully moves this Court for entry of Summary Judgment on all claims brought against it by the Plaintiff, Haynes International, Inc., and that Plaintiff's mark be deemed generic.

Plaintiff brings a five count Complaint alleging federal and common law trademark infringement and unfair competition, as well as federal and Pennsylvania trademark dilution.

Summary Judgment on all claims is appropriate on the following grounds:

- As a matter of law, Plaintiff's alleged mark, C-22, is generic and unprotectable because it is the common descriptive term used in the specialty metals industry for a grade or type of corrosion-resistant alloy meeting industry specification – UNS N06022 and containing approximately 22% chromium;
- As a matter of law, there is no likelihood of confusion; and
- As a matter of law, Plaintiff's dilution claims are completely unfounded given that C-22 is not famous and there has been no actual dilution.

These grounds for Defendant's Motion for Summary Judgment are set forth and argued in detail in the accompanying Memorandum of Law and supporting Concise Statement of Undisputed and Material Facts and Appendix of Exhibits.

Respectfully submitted,

BLANK ROME LLP

Dated: September 26, 2005

By: 

Timothy D. Pecsénye
Dennis P. McCooe
Emily J. Barnhart
Jennifer L. Miller
One Logan Square
Philadelphia, PA 19103
(215) 569-5619

Attorneys for Defendant